

REMARKS

Claims 1-50 and 58-65 are pending in the application with claims 58-65 added herein.

Applicants take strong exception to certain of the Office's statements regarding reasons for allowance. The Office is reminded that the patent statutes require claims to be presented and interpreted in accordance with what the Applicants regard as their invention, not as to what the Office regards as the invention. Accordingly, the Office must read the claims as Applicants regard them (as they are worded), not as the Office might regard them. Certain of the Office's statements refer to language that is not in any or all of the claims, and accordingly do not follow from allowability of claims that do not literally include such language. Certain of the Office's statements might be interpreted later as reading limitations into Applicant's claims that simply are not there, or otherwise indicate that Applicants must regard their invention as that to which the Office has interpreted outside the literal claim language.

For example, the Office states on page 2 of the Notice of Allowability that none of the prior art teaches forming a barrier layer "on a high K dielectric layer." This might be interpreted to conclude that the Office reads Applicants' claims to include such limitation, and that therefore all of the claims are so limited. Yet, Applicants did not include such limitation in any of the claims as filed, and had no intention that any of the currently pending claims would be so limited.

The limitation of forming a barrier layer "on a high K dielectric layer" does not appear in any of the claims. Reference to the various embodiments shown in the drawings of the present specification reveals that only the embodiments of Figs. 5, 9, 16, and 19

show any contact of the barrier layer to a high K dielectric layer. Even so, the contact between the barrier layer and dielectric layer in such embodiments is minimal. Apparently, the Office intended to state that the prior art does not teach forming a barrier layer on an insulation layer. "Insulation layer" and "dielectric layer" as used in all of the claims refer to two different structures. Even if the Office intended to state that the art does not teach forming a barrier layer on an insulation layer, Applicants assert that none of the claims include such a limitation. Some of the claims set forth that the barrier layer is formed over the insulation layer, however, such limitation is distinguished from a barrier layer formed on the insulation layer.

Also, for example, page 2 states that none of the prior art teaches "threshold voltage shift inducing material over the insulation layer." This also might be interpreted to conclude that the Office reads Applicants' claims to include this limitation, and that therefore all of the claims are so limited. Yet, only a few of the currently pending claims can be considered so limited.


Applicants note that independent claims 1 and 22 and the claims depending therefrom did not include any limitation to providing V_t shift inducing material over the insulation layer. Such claims merely set forth providing V_t shift inducing material over the barrier layer. No express or inherent limitation existed in such claims to provide shift inducing material over the insulation layers as well.

The Office must interpret the claims in accordance with their literal wording, and to the extent the Office has not already done so, such is mandated now. If the Office relies on allowance based on language not appearing in the claims, the Office must reject the claims and suggest insertion of such language. Then, Applicants can respond as they deem appropriate.

Allowance of the claims as literally worded is urged. Entry of the above added claims essentially precludes the independent claims from in any way being interpreted that the barrier layer is required to be formed on the insulation layer. Also, the above added claims preclude independent claims that are not already so limited from being interpreted as requiring providing V_t shift inducing material over the insulation layer. If the Office enters this amendment, this file history is to be interpreted as if the Office's statement on reasons for allowance in the Notice of Allowability never existed or was withdrawn. If the Office disagrees with this just stated position, claim rejections are mandated or modification of the statement on reasons for allowance is warranted.

Respectfully submitted,

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